

General Information Letter: Determination of residency is not a proper subject of a letter ruling.

August 1, 2001

Dear:

This will serve as a reply to your correspondence dated July 24, 2001. According to Department of Revenue ("Department") regulations, the Department may issue only two types of letter rulings: Private Letter Rulings ("PLRs") and General Information Letters ("GILs"). The regulations explaining these two types of rulings issued by the Department can be found at 2 Ill. Adm. Code sec. 1200 or on the Department's website at <http://www.revenue.state.il.us/legalinformation/regs/part1200>.

Due to the nature of your inquiry and the information presented in your letter, we are required to respond with a GIL. GILs are designed to provide background information on specific topics but are not, however, binding on the Department. In your letter, you have stated in relevant part as follows:

Yesterday I was in touch with the Fairview Heights Revenue Office relative to the following inquiry:

For tax purposes, what are the requirements for establishing a "residence" in the State of Illinois?

I told the man who I was talking to that I had been to the Washington University Law Library last Thursday and could find no definition in the Illinois Tax Code...

Last Thursday I did find the definition of "Residence" in the Public Aid Code (305 ILCS 5/2-10)... Does the middle sentence in the first paragraph, i.e., "A person shall not be required to occupy a permanent dwelling or have a fixed home or mailing address in order to establish a permanent home within this State," apply to the Tax Code?

Please respond to me at the above address as to what the requirements are to establish a "residence" in Illinois under your Tax Code.

Please find enclosed herewith a copy of Illinois Income Tax Regulation Section 100.3020. Section 100.3020 a) 1) repeats the statutory definition of the term "resident to mean: "an individual who is in Illinois for other than a temporary or transitory purpose during the taxable year or who is domiciled in Illinois but is absent from Illinois for a temporary or transitory purpose during the taxable year."

Questions of residence and domicile are fact dependent and not appropriate subjects for a letter ruling. The regulation does provide guidance on these matters. Also, at subsection f), it establishes a presumption of residence or nonresidence under certain circumstances. If you have any further questions regarding interpretation of this regulation, please feel free to contact this office.

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Sincerely yours,

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